

ORDINANCE NO. \_\_\_\_\_, SERIES 2007

**AN ORDINANCE RE-ENACTING LOUISVILLE METRO CODE OF ORDINANCES (LMCO) SECTIONS 133.10, 133.11, 133.12, 133.98, AND 133.99(D) AND REPEALING SECTIONS 133.01, 133.02, 133.03, 133.20, 133.21, 133.99(A), 133.99(B), 133.99(C), 133.99(E), AND 133.99(F) REGARDING OFFENSES AGAINST MORALS.**

**Sponsored By: Councilmen Kramer, Downard and Blackwell**

**BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE COUNCIL) AS FOLLOWS:**

**SECTION I:** Pursuant to the provisions of KRS 67C.115(2), LMCO Sections 133.10, 133.11, 133.12, 133.98, and 133.99(D) are hereby reenacted, and Sections 133.01, 133.02, 133.03, 133.20, 133.21, 133.99(A), 133.99(B), 133.99(C), 133.99(E), and 133.99(F) are hereby repealed as follows:

**~~§ 133.01 INDECENT EXPOSURE.~~**

~~No person shall expose his or her person indecently, or cause any other person to do so.~~

**~~§ 133.02 VEHICLES USED FOR IMMORAL PURPOSES.~~**

~~No owner or chauffeur of any taxicab or other vehicle shall knowingly use it or allow it to be used as a means of aiding or promoting prostitution or illicit sexual intercourse, or aid in any way in bringing persons together for the purpose of illicit sexual intercourse.~~

**~~§ 133.03 PROSTITUTION.~~**

~~No person shall own, keep, maintain, or be an inmate of, or in any way connected with a disorderly house or a house of ill fame. No owner, proprietor, keeper, or manager of any hotel, house of private entertainment, boardinghouse,~~

~~lodging house, or other like place, shall knowingly allow prostitution or illicit sexual intercourse to be carried on therein, and no person shall engage in prostitution in any such place or in any other place in Jefferson County.~~

#### **§ 133.10 DECLARATION OF PUBLIC POLICY.**

The Louisville/Jefferson County Metro Government declares as a matter of public policy that the prohibition of the sale to minor and the display or exhibition in public establishments open to minors of certain publications, articles, books, magazines, movies, recordings, and other works which are harmful to minors and which exploit, are devoted to, or are principally made up of descriptions, representations, and depictions of sexual acts, nude or partially denuded human figures, or sadomasochistic abuse is a public necessity and is required in the interest of health, safety, welfare, and the well-being of the people and is required to protect persons under the age of 18 from displays of such publications, articles, books, magazines, movies, recordings, and other works in public places and to decrease the incidence of crime and juvenile delinquency related thereto.

#### **§ 133.11 DEFINITIONS.**

For the purpose of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

##### ***DESCRIPTIONS OR DEPICTIONS OF ILLICIT SEX OR SEXUAL IMMORALITY.***

- (1) Human genitals in the state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse, or sodomy;

(3) Fondling or other erotic touching of human genitals, pubic region, buttocks, or female breast.

***DISTRIBUTION.*** The transfer of possession, whether with or without consideration.

***HARMFUL TO MINORS.*** A publication, article, book, magazine, movie, recording, or other work shall be deemed "harmful to minors" if it:

(1) Is distinguished or characterized by descriptions, depictions, or representations of sexual acts, sexual excitement, nude or partially denuded human figures, or sadomasochistic abuse.

(2) Predominantly appeals to the prurient, shameful, or morbid interest of minors, and

(3) Is patently offensive to prevailing standards in the adult community with respect to what is suitable material for minors, and

(4) Is utterly without redeeming social importance for minors.

***KNOWINGLY.*** Having general knowledge of or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both:

(1) The character and content of any material described herein which is reasonably susceptible of examination by the person, and

(2) The age of the minor, provided however, that an honest mistake shall constitute an excuse from liability hereunder if the person made a reasonable, bona fide attempt to ascertain the true age of the minor.

***MINOR.*** Any person under the age of 18 years.

**NUDE OR PARTIALLY DENUDED FIGURES.** Descriptions, depictions, or representations of human figures if such human figures are posed or presented in a manner of arouse lust or passion or to exploit sex, lust, or sexual perversions and if the genitals, public regions, buttocks, or female breasts below a point immediately above the top of the areola of such figures are less than completely or opaquely covered or the male genitals of such figures are shown in a discernibly turgid state even if completely and opaquely covered.

**SADOMASOCHISTIC ABUSE.** Flagellation or torture by or on a person clad in undergarments, a mask, or bizarre costume, or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed.

**SEXUAL ACTS.**

- (1) Human genitals in the state of sexual stimulation or arousal.
- (2) Acts of masturbation, sexual intercourse, or sodomy.
- (3) Fondling or other erotic touching of human genitals, pubic region, buttocks, or female breasts.

**SEXUAL EXCITEMENT.** The condition of human male or female genitals when in a state of sexual stimulation or arousal.

**§ 133.12 PROHIBITIONS.**

- (A) A person shall not knowingly or willfully display at any store, newsstand, video cassette rental center, or other business establishment other than a licensed adult entertainment establishment any publication, article, book, magazine, movie, recording, or other work, if the cover, movie video jacket, or other packaging of the publication, article, book, magazine, movie, recording, or

other work is characterized by descriptions, representations, or depictions of sexual acts, sexual excitement, nude or partially denuded human figures, or sadomasochistic abuse; and the publication, article, book, magazine, movie, recording, or other work is harmful to minors, unless the manner in which the publication, article, book, magazine, movie, recording, or other work is displayed conceals the cover, movie video jacket, or other packaging from the general public and unless reasonable precautions are made to prevent minors from directly obtaining access to such publication, article, book, magazine, movie, recording, or other work within that business establishment.

(B) A person shall not knowingly sell, rent, loan, or otherwise distribute for monetary consideration to a minor any publication, article, book, magazine, movie, recording, or other work which is harmful to minors, nor shall any person knowingly exhibit for monetary consideration to a minor, or knowingly sell to a minor an admission ticket or pass or knowingly admit a minor for monetary consideration to any premises wherein is exhibited any motion picture, show, or other presentation which is harmful to minors.

**~~§ 133.20 OFF-TRACK BETTING.~~**

~~(A) No person, firm, corporation, or partnership shall engage in the occupation, either for himself or as agent or employee of another, of receiving or accepting money, requests, messages, or wagers from another, outside the enclosure of a race track licensed by the State Racing Commission of this state or another state, for the purpose of transmitting that money, request, message, or wager into the enclosure to make a wager through the regular pari-mutuel~~

~~betting apparatus on a horse race run or about to be run or advertised, posted, or reported as being run or about to be run at any race track in or out of the state.~~

~~(B) No person, firm, corporation, or partnership shall allow premises under his or its control to be used by another to engage in the occupation prohibited by subsection (A) above.~~

~~(C) No person, firm, corporation, or partnership shall transmit any money, request, message, or wager to another for the purpose of their transmitting for payment of any consideration that money, request, message, or wager into the enclosure of a race track licensed by the State Racing Commission of this state or another state to make a wager through the regular pari-mutuel betting apparatus on a horse race run or about to be run, or advertised, posted, or reported as being run, or about to be run at any race track in or out of the state.~~

~~(D) In any prosecution under this section, proof that the money, request, message, or wager was given for what was purported to be or what was advertised, reported, or understood to be a horse race shall be sufficient to establish a prima facie case for the prosecution.~~

### **~~§ 133.21 MECHANICAL AMUSEMENT DEVICES.~~**

~~(A) It shall be unlawful for any person owning or controlling any mechanical game of skill and amusement operated on the coin (or token) in the slot principle, the playing of which may result in free replays, to permit any person under the age of 18 to play any such game, whether accompanied by betting or not.~~

~~(B) — Each such mechanical game of skill and amusement displayed for use within Jefferson County shall be posted with a copy of subsection (A) above.~~

**§ 133.98 SEVERABILITY.**

If any provision of this chapter as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

**§ 133.99 PENALTY.**

~~(A) Any person who violates § 133.01 shall be fined not less than \$25 nor more than \$100 for each offense, or imprisoned not more than 50 days, or both.~~

~~(B) Any person who violates any of the provisions of §§ 133.01 through 133.03 where another penalty is not provided shall be fined not less than \$25 nor more than \$100, or imprisoned for not more than 50 days, or both, for each offense. Each day's continued violation shall constitute a separate offense.~~

~~(C) The District Court may hold the offender of §§ 133.01 through 133.03 to bail in a sum not exceeding \$1,000, to be for the offender's good behavior for any length of time not exceeding one year. Should the offender fail to pay the fine or fail to give bond, he shall forthwith be imprisoned, to be kept in custody until bail is given, or until the time fixed by judgment has expired and the fine is paid or satisfied by labor, as provided by law.~~

(D) Any person who violates any provision of § 133.12 shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$100 nor more than \$500 or imprisonment not to exceed 50 days, or both, for each offense. Each such violation shall constitute a separate offense. Any person

cited hereunder for a failure to meet a requirement hereof may be cited again for that failure one or more days after a prior citation and in such case each citation shall constitute a separate offense.

~~(E) Any person who violates any of the provisions of § 133.20 shall be guilty of a misdemeanor and shall be fined not less than \$50 nor more than \$100 or imprisoned for not more than 50 days, or both such fine and imprisonment, for each offense.~~

~~(F) Any person who violates § 133.21 shall be fined not less than \$25 nor more than \$50 for each offense.~~

**SECTION II:** This Ordinance shall take effect upon its passage and approval.

\_\_\_\_\_  
Kathleen J. Herron  
Metro Council Clerk

\_\_\_\_\_  
Rick Blackwell  
President of the Council

\_\_\_\_\_  
Jerry E. Abramson  
Mayor

\_\_\_\_\_  
Approval Date

**APPROVED AS TO FORM AND LEGALITY:**

Irv Maze  
Jefferson County Attorney

BY: \_\_\_\_\_  
F:\lbhowell\Docs\Linda\Mary Anne\Ordinances\Chapter 133 Ordinance-3-1-07.doc  
G:Jeff Co Ord